

APPENDIX.**AFFIDAVIT.**

STATE OF ILLINOIS, }
COUNTY OF COOK: } ss.

W. D. MAXWELL, having been duly sworn on oath, deposes and says:

1. He is the First Vice-President of the Tribune Company, an Illinois corporation, and is the Editor of the *Chicago Tribune*. He has also served as a member of the Board of Directors of the Petitioner, the Associated Press, from 1958 to 1966; he is thus familiar with the services and functions of the Associated Press both as an editor and as one who has participated in its management.

2. The Tribune Company publishes one of the world's largest daily metropolitan newspapers, the *Chicago Tribune*; its presses, personnel and executive offices are all located in Chicago, Illinois, where the *Tribune* is published. Although the bulk of the *Tribune's* circulation is within the State of Illinois, the *Tribune* also has readership and subscribers in virtually every state of the union and in many foreign lands. The *Chicago Tribune* is a member of the Petitioner, the Associated Press, and has been a member since the inception of the Association in 1900.

3. The Tribune Company has a signal interest in this case not only because of its membership in the Associated Press, but also because of the Tribune Company's long-established practice and policy of at all times following, and at appropriate times participating in, litigation that

concerns and jeopardizes freedom of the press [see, e.g., *Near v. Minnesota*, 283 U. S. 697; *New York Times Co. v. Sullivan*, 376 U. S. 254; *New York Times Co. v. Connor*, 291 F. 2d 492 (5th Cir.)]. The instant litigation is one of fifteen separate libel actions brought by the Respondent Edwin A. Walker because of news coverage of Respondent's deliberate presence and role in the University of Mississippi riots in September, 1962; the suits are pending in 10 different states, name the Associated Press in 8 suits, and newspapers of general circulation in 11 suits. The total damages that have been sought by Respondent for news stories, dispatches and editorials concerning his activities at the University of Mississippi is \$33,250,000.

4. The Tribune Company regards pendency of the suits instituted by the Respondent and the result below in this case as a substantial threat to free speech and press. Acts of violence, incidents of strife and riots have in recent years become a prominent and recurring part of the news of the day. These happenings must be reported by the press if the news is to be covered and the public is to be adequately informed about such events; the public cannot possibly make an intelligent or enlightened appraisal of such occurrences or their underlying causes unless such news is currently and widely disseminated.

5. A riot, a lawless demonstration or almost any violent incident is invariably fraught with general confusion, events of split-second duration, and conflicting charges and counter-charges; because of the dynamic nature of the events the facts are sometimes never precisely learned or, in the alternative, are determined much later. Accordingly, at times eyewitness news emanating from the scene of such happenings may be only partially correct although it is the best available report at the moment. If on-the-scene spot news reports cannot be published as received but must await ultimate confirmation hours or days later because

of the fear of a subsequent libel claim, then the news will oftentimes not be printed. The cost of defending libel actions in such cases is much too heavy a burden for many of the country's newspapers as well as for the nation's wire services.

6. Affiant believes that true freedom of the press cannot endure unless the press can report, in depth and detail and without fear of economic reprisal, *all* the news of the day as received; and specifically such news as on-the-scene reports of a riot, a demonstration, or a violent social upheaval. Affiant believes on the basis of his experience as a newspaperman and editor that the press requires the freedom to publish such news in accordance with the same constitutional limits marked by this Court for the reporting of the activities and conduct of public officials. The "public official" standard, if applied to such events and participants, would permit publishing about such occurrences as they happen without fear of economic ruin from defending libel suits and yet would at the same time discourage publication of truly malicious falsehoods concerning such events.

Further affiant sayeth not.

/s/ W. D. MAXWELL,
W. D. MAXWELL,

SUBSCRIBED AND SWORN TO before me this fourth day of January, A.D., 1967.

/s/ DOLORES FIGIEL,
Notary Public.

[SEAL]